



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

March 25, 2008

The Honorable Judith Spang, Chairman
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: SB 158, relative to review of activities affecting surface waters.

Dear Chairman Spang:

Thank you for the opportunity to comment on SB 158 which would amend RSA 485-A to provide explicit authority for the Department of Environmental Services (DES) to issue water quality certifications required under Section 401 of the Clean Water Act. The bill would also certification for new large water withdrawals or diversions, whether or not a federal license or permit is required. DES supports this legislation.

Section 401 of the federal Clean Water Act specifies state review and certification for proposed activities that require a federal license or permit and may result in a discharge to surface waters. This includes wetlands permits, NPDES permits, and hydropower FERC licenses. DES has historically issued such certifications under the general permit authority of RSA 485-A:13. The bill extends review requirements to new large water withdrawals or diversions, whether or not a federal license or permit is required.

Water quality certification is a powerful administrative tool for water quality management relative to the Clean Water Act goals, designated uses, and water quality standards that are incorporated into state statutes. It provides for detailed review of proposed activities that may affect water quality BEFORE the project is commenced. This makes it possible to specify protective measures, if needed at the outset, thus avoiding possible water quality violations in the future that would need corrective measures.

In conclusion, DES supports this bill. It incorporates Clean Water Act provisions into state law, and provides an explicit means for water quality standards to be considered when new withdrawals or diversions are proposed. Thank you for the opportunity to comment in support of this important legislation. If you have any questions or need additional information, please do not hesitate to call Paul Currier at 271-3289 or me at 271-3449.

Sincerely,

Thomas S. Burack
for Thomas S. Burack
Commissioner

cc: Senator Margaret W Hassan
Senator Martha Fuller Clark
Senator John S Barnes
Representative Dennis F Abbott
Representative Judith T Spang

Senator Iris W Estabrook
Senator Jacalyn L Cilley
Representative Nancy F Stiles
Representative Elisabeth N Sanders